IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 873 OF 2005

M/s Datani Constructions .. Petitioners

V/s

State of Maharashtra & Ors. .. Respondents

Mr.S.G. Surana for the Petitioners.

Mr.Pradeep Jadhav, A.G.P. for Respondents No.1 and 2.

Mr.G.D. Utangale for Respondents No.3 to 5.

Ms.Betty D'Souza for Respondents No.6 to 57.

CORAM : H.L. GOKHALE & ABHAY S. OKA, JJ.

DATE : 23RD FEBRUARY 2006

P.C. :

1. Heard the counsel for the parties.

2. A Slum Rehabilitation Scheme is being developed by the Petitioners herein in a plot of land situated near Oshiwara Bus Depot at Goregaon (West). Originally when Annexure-2 was issued, some 383 persons were held eligible. Subsequently, 205 more were held eligible. Thereafter, it appears that some of the non-eligible persons filed appeals / representations, whereafter such appeals / representations came to be entertained in the cases of 44 applicants on 9th January 2004, 6 more applicants thereafter and then in the cases of 7 more

applicants on 28th January 2005.

3. It is the case of Mr.Surana that many of these persons, who were entertained on 9th January 2004 and 28th January 2005, were not eligible.
Many of them were making double claims. It is also his submission that the officer, who passed that order in those appeals / representation, has no jurisdiction to pass such an order.

4. As far as the jurisdictional aspect is concerned, once Annexure-2 is finalised by the Additional Collector (Encroachment), who is the Competent Authority available under the Maharashtra Slum Areas (I.C. & R) Act, 1971, the appeal therefrom lies to the Chief Executive Officer of the S.R.A. This being the position, we hereby permit the Petitioners to file application for review in those cases where, according to him, there are such double claims. This is because under the Scheme of Rehabilitation, one is entitled to get one structure for a structure existing prior to 1st January 1995. It is only because this aspect goes to the root of the matter that we are permitting the Petitioners to file such application for review. This is also for two more reasons. Firstly, the Petitioners were not heard when those appeals / representations were entertained and secondly, the number of tenements to be

provided goes on changing from time to time. It is only for these reasons that we are permitting the Petitioners to make such application for review. On receiving such an application for review, the Chief Officer of S.R.A. or his delegate, namely the Secretary (S.R.A.) will issue notices to the persons concerned, hear them thereafter and pass appropriate order. As far as all others from this list of 44 plus 7 are concerned, if there are no objections, they will be entitled to be shifted in the regular accommodation.

5. Petition stands disposed of with the above order.

(H.L. GOKHALE, J.)

(ABHAY S. OKA, J.)